

EXHIBIT D

00045

1 Q. Have you ever looked at school board minutes
2 before?
3 A. No, sir.
4 Q. Okay. Having taken a second to look at the school
5 board minutes, do you recall now whether at that meeting
6 there was any discussion concerning either the --
7 A. That may have been the meeting -- it was either the
8 last meeting in June or else this meeting in July that Bert
9 Spahr was so upset. I don't really recall. Now that I
10 know -- I see this that I was there the 12th.
11 Q. Okay. That's fine. So, correct me if I'm -- if I
12 say anything incorrectly, just let me know. Let me just try
13 and put this back together. It sounds to me like your
14 recollection is that the last school board meeting you
15 attended prior to the October meeting was when Ms. Spahr
16 spoke her concerns?
17 A. That's when she was so upset.
18 Q. And other than that, you don't recall anything else
19 at any of these meetings prior to October?
20 A. No. That one was a little bit -- going a little
21 bit rough.
22 Q. What do you mean by, "going a little rough"?
23 A. Well, they got upset with each other, you know,
24 some of the -- Ms. Spahr's said her -- what she thought and
25 then some of the -- I know Alan Bonsell was upset with her

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1 because of the way that she spoke. But it was just a little
2 bit of commotion there. They just didn't get along too well.
3 Q. Do you remember how Mr. Bonsell responded?
4 A. No, I don't. I can't say the words that Mr.
5 Bonsell said. But I do know that anything that Mr. Bonsell
6 said, he thought everything through before he ever spoke.
7 Q. Do you recall what it was specifically about what
8 Ms. Spahr said that upset Mr. Bonsell?
9 A. She was terribly upset because she thought they
10 were not getting the new biology book, and Mr. Bonsell,
11 that's when he said he would have to look into it further
12 before he would give consent or we voted on this, would take
13 a vote on it, that he wanted to make sure we got the right
14 book.
15 Q. And by, "right book," were you aware of whether
16 there was discussions of using any other textbooks at that
17 time?
18 A. Not that I recall, not at that -- yes, there was.
19 On that July meeting, that is I think when that -- I think is
20 when the book of Pandas and People or whatever, getting
21 another book. And Ms. Spahr thought that she was going to
22 have to teach another theory or something like that. But Dr.
23 Nilsen and Alan both reassured her that they would not be
24 teaching the students any other theory.
25 Q. Had you at this time in the July meeting or

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1 whenever it was -- I understand that you're a little bit
2 unclear with which date, which is fine. At that time, were
3 you aware of a book entitled, Pandas and People?
4 A. Yes, sir.
5 Q. And how were you made aware of this book?
6 A. Because the -- I don't know how Mr. Buckingham got
7 this book, but that's how -- I had asked Mr. Buckingham if he
8 had the book, I would like to see it. And so he gave me the
9 book. And I did not read it page for page. But the book,
10 Pandas and People I felt was -- should not be taught or it
11 shouldn't be taught at all. But if a student wanted to
12 pursue another theory, that maybe it could be available, that
13 that student could look at that book but not be taught.
14 Q. How was it that you became aware that Mr.
15 Buckingham had this book, Pandas?
16 A. Because of -- it was through Mr. Buckingham that he
17 had mentioned this book. And I don't know where he got this
18 book. I have no idea at all.
19 Q. Do you recall when it was that he mentioned to you
20 the book, Pandas?
21 A. It was probably some time in -- that had to be in
22 July.
23 Q. Prior to the school board meeting?
24 A. Yeah, that had to be.
25 Q. And then you stated that you got a copy of the book

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1 from Mr. Buckingham?
2 A. I didn't get a copy, he gave me the book. And I
3 read the book, and gave it right back to him.
4 Q. You stated that you didn't feel that the book
5 should be taught in school.
6 A. No. It should not be taught in school.
7 Q. What was it about the book that you felt should not
8 be taught in school?
9 A. In the first place, the book I felt should not --
10 from the 9th grade to 12th grade student might understand
11 some of it, but not anyone -- not students younger than that.
12 And again, it's just another theory. So -- but I felt that
13 our students deserve the opportunity if they wanted to pursue
14 anything, there is so many different theories out there, that
15 they should have another book if they wanted to look at it.
16 Q. Okay. You're referring to other theories. What do
17 you mean when you're saying, "other theories?"
18 A. Well, there are -- the word, "creationism" was
19 brought up. Well, creationism, I don't believe should ever
20 be taught in school. And they had no intentions of teaching
21 creationism.
22 Q. When you say the word, "creationism" was brought
23 up, who do you mean brought it up?
24 A. That was when Bert Spahr was up and said that we
25 were going to teach creationism.

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1 Q. And in your recollection this was in the same July
2 meeting?

3 A. (Witness nodded head.)

4 Q. Do you recall how anyone responded to Ms. Spahr's
5 statement that she felt they were going to be asked -- "they"
6 being the teachers, were going to be asked to teach
7 creationism?

8 A. She -- in Ms. Spahr's mind, I think what happened,
9 she was so sure that this is what they were going to be asked
10 to do, but she was reassured by Alan Bonsell and Mr. Nilsen
11 that they would not be asked to teach any of this, they are
12 not going to be teaching any other theory. But if the book
13 is available for the students, that's the only thing that --
14 that is the only thing that I was concerned about, giving our
15 students another opportunity if there was a different theory
16 out there that they want to look at, that they have that
17 opportunity.

18 Q. When you say, "other theory," am I correct in
19 saying that you mean as opposed to evolution?

20 A. Yes.

21 Q. Okay. Did you ever consider -- you said there's
22 several other theories out there. What other theories do you
23 understand are out there other than evolution?

24 A. Well, I'm not a scientist, by far. And I don't
25 know. But I feel there is something else out there. There's

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1 other -- I feel, Chris, that if our students only have one
2 theory being taught to them, that theory soon becomes a
3 fact because that's the only theory that student knows. Why
4 not give that student the opportunity -- there's other
5 theories out there, and I surely can't name them; as I said,
6 I'm not a scientist. But I think there's some -- should be
7 some research done on that to give our students the
8 opportunity to learn if they want to.

9 Q. Were there any other science theories other than
10 evolution for which you felt the students should be exposed
11 to alternatives?

12 A. No. I couldn't name one. Because as I said, I
13 know there's others out there because we certainly have the
14 greatest scientists in world, so there's other theories
15 there.

16 Q. Okay. But let's say, okay -- and I'm not a
17 scientist, either. I can't speak for these two here,
18 probably there's no scientists; we're probably all on about
19 equal ground here. There's several different theories taught
20 in science classes, nuclear theory, evolutionary theory.
21 Evolutionary theory is one theory that's taught, then there's
22 other theories that have nothing to do with evolution that
23 are also taught. Did you have issue with any other theories
24 taught in science classes?

25 A. No.

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1 Q. Is there any reason why evolution presented a
2 problem to you?

3 A. Yes, it is. Because I just have the feeling that
4 there's something else out there. I certainly don't believe
5 there's never been a proven fact with evolution in evolution.
6 There has to be something out there, there has to be other
7 theories there that our students can be made aware of. And
8 if they're not taught, it's fine; but if the books are
9 available, that's what should happen.

10 Q. Okay. So at this time during the July meeting,
11 what was your understanding of what the school board wanted
12 from the science teachers with respect to the teaching of
13 other theories?

14 A. The school board asked nothing of the teachers as
15 far as teaching the students any other theory. The only
16 thing the school board asked was that the teachers would be
17 willing to have a book there that the student if they wanted
18 to could pursue another theory, could look at it.

19 Q. Now, when you had spoke earlier about your review
20 of the textbook, Pandas, do you recall what theory, if any,
21 was presented by Pandas?

22 A. No, I don't. And I'm going to say this to you.
23 For me, it was a little hard, I would have had to take time
24 and sit down with that book and really read it in order to
25 get anything out of it. Because I know nothing about --

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1 about the book as far as that. I knew nothing. And the
2 book -- that's why I said a student from the 9th to the 12th
3 grade would probably be able to understand it better than
4 what I would, truthfully.

5 Q. Other than your concern with the fact that the
6 textbook may be hard for some students to understand, did you
7 have any other concerns with respect to the textbook?

8 A. No.

9 Q. And by, "textbook," I'm referring to the, Pandas
10 textbook?

11 A. No. No, sir, I should say.

12 Q. So we're in July and you understand that this is --
13 you had not too much previous to this July meeting become
14 aware of this textbook, Pandas, you reviewed the textbook and
15 Ms. Spahr had a few things to say at the school board
16 meeting, and this was the last school board you attended
17 prior to the October meeting?

18 A. Correct.

19 Q. Let's move ahead, then, to October. I have a date
20 in front of me as October 4th for that school board meeting.
21 Does that sound right to you?

22 A. Yes, sir.

23 Q. Do you recall anything occurring in that October
24 4th school board meeting with respect to the biology
25 textbook?

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 1 down as donors of the textbook. Do you recall that?
 2 A. I was asked if I would be -- if I would be willing
 3 to have those -- if -- not -- I was not going to be a donor
 4 of the book. no. that's wrong.
 5 Q. Okay.
 6 A. I was not giving one penny towards that book. But
 7 if they -- if someone was donating it. I had no objections.
 8 Q. Okay. So, you didn't volunteer to donate books.
 9 but rather you stated that you had no objection if someone
 10 else were to donate these books?
 11 A. Correct.
 12 Q. Okay. Understood. Now, according to Mr. Brown, at
 13 least one of these discussions occurred in August. Do you
 14 recall having any of these discussions in August?
 15 MR. WHITE: August of what year?
 16 MR. LOWE: August of 2004.
 17 THE WITNESS: No, sir. I was not there.
 18 BY MR. LOWE:
 19 Q. This was when you were in --
 20 A. (Witness nodded head)
 21 Q. Okay. So, between the June meeting when -- after
 22 you had reviewed the textbook, Pandas, and coming back in
 23 October, you don't recall having any discussions with respect
 24 to, Pandas?
 25 A. Not at all.

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 1 final meeting in October where you voted to pass the change
 2 in the biology curriculum?
 3 A. Yes.
 4 Q. But at this time you don't recall there being a
 5 statement that the teachers were going to be asked to read to
 6 the class?
 7 A. No, sir.
 8 Q. And do you remember any discussions with respect to
 9 the change in the curriculum that may have -- had the change
 10 be very similar to what you have in front of you which again
 11 is Page 14 of the Complaint, Paragraph 33, but with the --
 12 with the removal of the term, "intelligent" design?
 13 MR. WHITE: I'm confused. Can you ask the question
 14 again?
 15 MR. LOWE: Then it must have been a confusing
 16 question.
 17 BY MR. LOWE:
 18 Q. Was there any discussion to changing the curriculum
 19 in a way that intelligent design wouldn't be included in the
 20 change?
 21 A. My understanding was that intelligent design would
 22 not be used in the curriculum at all.
 23 Q. Was it your understanding that intelligent design
 24 would be in the wording of the curriculum as it is here?
 25 A. No.

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 1 Q. Okay. We're getting there. We are just about
 2 done. I'm going to ask a general catch-all statement, but I
 3 think this might help to bring a close to your recollection
 4 of the meetings. Please correct me if I'm saying anything
 5 that you don't believe is completely accurate, and if you
 6 want to correct me, too.
 7 A. Okay.
 8 Q. My understanding, then, at this time is that other
 9 than the limited statements made by Ms. Spahr concerning --
 10 I'm going to write this as I'm saying it because I want to
 11 make sure I get it right -- concerning the fact that she
 12 felt, first, that they may not be receiving biology
 13 textbooks, also that she was concerned with something the
 14 teachers may be required to read in class, and finally, a
 15 concerning she may have had with respect to teaching
 16 creationism early on. Do you recall anything else being
 17 discussed with respect to the biology text or the biology
 18 curriculum?
 19 A. No, sir.
 20 Q. Okay. At this point I have that those are your
 21 three basic concerns, and I know that we may have talked
 22 about those in different ways. But it sounds to me -- I'm
 23 just trying to summarize. Then moving to the final meeting
 24 in October, and once again, I understand that you're -- the
 25 meetings may blend a little bit to you, but was it in the

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 1 Q. So, your understanding was that there would be no
 2 mention of intelligent design?
 3 A. No. Intelligent design was not going to be
 4 mentioned.
 5 Q. Would you have voted for a change in which
 6 intelligent design would have been mentioned?
 7 MR. WHITE: Can you clarify what you mean by,
 8 "mentioned"?
 9 BY MR. LOWE:
 10 Q. In which intelligent design would have been
 11 included in the curriculum?
 12 A. Truthfully, I don't know what intelligent design --
 13 what theory that would be. To me, it's some kind of a
 14 scientific theory, and I don't understand it. So no, I
 15 wouldn't not have voted.
 16 Q. And that's actually going to bring me into my last
 17 line of questioning, so we'll get there in a second. Would
 18 you have been opposed to the teachers mentioning intelligent
 19 design to their students?
 20 A. As I said, Chris, I don't really understand what
 21 intelligent design stands for. What theory it even
 22 determines because I don't know who came up with those two
 23 words. I'm not a scientist, so I cannot give you an answer
 24 on that.
 25 Q. Okay. Before passing the resolution to change the

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1 Q. Have you ever looked at school board minutes
2 before?
3 A. No, sir.
4 Q. Okay. Having taken a second to look at the school
5 board minutes, do you recall now whether at that meeting
6 there was any discussion concerning either the --
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22 Q. What do you mean by, "going a little rough"?
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2 bit of commotion there. They just didn't get along too well.
3 Q. Do you remember how Mr. Bonsell responded?
4 A. No, I don't. I can't say the words that Mr.
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16 there was discussions of using any other textbooks at that
17 time?
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21 another book. And Ms. Spahr thought that she was going to
22 have to teach another theory or something like that. But Dr.
23 Nilsen and Alan both reassured her that they would not be
24 teaching the students any other theory.
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1 whenever it was -- I understand that you're a little bit
2 unclear with which date, which is fine. At that time, were
3 you aware of a book entitled, Pandas and People?
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5 Q. And how were you made aware of this book?
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18 book. I have no idea at all.
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22 July.
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1 from Mr. Buckingham?
2 A. I didn't get a copy, he gave me the book. And I
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4 Q. You stated that you didn't feel that the book
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7 Q. What was it about the book that you felt should not
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10 from the 9th grade to 12th grade student might understand
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12 And again, it's just another theory. So -- but I felt that
13 our students deserve the opportunity if they wanted to pursue
14 anything, there is so many different theories out there, that
15 they should have another book if they wanted to look at it.
16 Q. Okay. You're referring to other theories. What do
17 you mean when you're saying, "other theories"?
18 A. Well, there are -- the word, "creationism" was
19 brought up. Well, creationism, I don't believe should ever
20 be taught in school. And they had no intentions of teaching
21 creationism.
22 Q. When you say the word, "creationism" was brought
23 up, who do you mean brought it up?
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25 were going to teach creationism.

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1 Q. And in your recollection this was in the same July
2 meeting?

3 A. (Witness nodded head.)

4 Q. Do you recall how anyone responded to Ms. Spahr's
5 statement that she felt they were going to be asked -- "they"
6 being the teachers, were going to be asked to teach
7 creationism?

8 A. She -- in Ms. Spahr's mind, I think what happened,
9 she was so sure that this is what they were going to be asked
10 to do, but she was reassured by Alan Bonnell and Mr. Nilsen
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15 students another opportunity if there was a different theory
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17 opportunity.

18 Q. When you say, "other theory," am I correct in
19 saying that you mean as opposed to evolution?

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22 several other theories out there. What other theories do you
23 understand are out there other than evolution?

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19 equal ground here. There's several different theories taught
20 in science classes, nuclear theory, evolutionary theory.
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1 Q. Is there any reason why evolution presented a
2 problem to you?

3 A. Yes, it is. Because I just have the feeling that
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5 there's never been a proven fact with evolution in evolution.
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9 Q. And by, "textbook," I'm referring to the, Pandas
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16 meeting, and this was the last school board you attended
17 prior to the October meeting?

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19 Q. Let's move ahead, then, to October. I have a date
20 in front of me as October 4th for that school board meeting.
21 Does that sound right to you?

22 A. Yes, sir.

23 Q. Do you recall anything occurring in that October
24 4th school board meeting with respect to the biology
25 textbook?

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1 down as donors of the textbook. Do you recall that?

2 A. I was asked if I would be -- if I would be willing
3 to have those -- if -- not -- I was not going to be a donor
4 of the book, no, that's wrong.

5 Q. Okay.

6 A. I was not giving one penny towards that book. But
7 if they -- if someone was donating it, I had no objections.

8 Q. Okay. So, you didn't volunteer to donate books,
9 but rather you stated that you had no objection if someone
10 else were to donate these books?

11 A. Correct.

12 Q. Okay. Understood. Now, according to Mr. Brown, at
13 least one of these discussions occurred in August. Do you
14 recall having any of these discussions in August?

15 MR. WHITE: August of what year?

16 MR. LOWE: August of 2004.

17 THE WITNESS: No, sir. I was not there.

18 BY MR. LOWE:

19 Q. This was when you were in --

20 A. (Witness nodded head.)

21 Q. Okay. So, between the June meeting when -- after
22 you had reviewed the textbook, Pandas, and coming back in
23 October, you don't recall having any discussions with respect
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1 final meeting in October where you voted to pass the change
2 in the biology curriculum?

3 A. Yes.

4 Q. But at this time you don't recall there being a
5 statement that the teachers were going to be asked to read to
6 the class?

7 A. No, sir.

8 Q. And do you remember any discussions with respect to
9 the change in the curriculum that may have -- had the change
10 be very similar to what you have in front of you which again
11 is Page 14 of the Complaint, Paragraph 33, but with the --
12 with the removal of the term, intelligent design?

13 MR. WHITE: I'm confused. Can you ask the question
14 again?

15 MR. LOWE: Then it must have been a confusing
16 question.

17 BY MR. LOWE:

18 Q. Was there any discussion to changing the curriculum
19 in a way that intelligent design wouldn't be included in the
20 change?

21 A. My understanding was that intelligent design would
22 not be used in the curriculum at all.

23 Q. Was it your understanding that intelligent design
24 would be in the wording of the curriculum as it is here?

25 A. No.

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1 Q. So, your understanding was that there would be no
2 mention of intelligent design?

3 A. No. Intelligent design was not going to be
4 mentioned.

5 Q. Would you have voted for a change in which
6 intelligent design would have been mentioned?

7 MR. WHITE: Can you clarify what you mean by,
8 "mentioned"?

9 BY MR. LOWE:

10 Q. In which intelligent design would have been
11 included in the curriculum?

12 A. Truthfully, I don't know what intelligent design --
13 what theory that would be. To me, it's some kind of a
14 scientific theory, and I don't understand it. So no, I
15 wouldn't not have voted.

16 Q. [REDACTED] trying to bring me into my last

17 [REDACTED] so we'll get there in a second. Would

18 [REDACTED] intelligent design?

19 [REDACTED] to that question?

20 [REDACTED] Then, I don't really understand what

21 [REDACTED] What theory it is?

22 [REDACTED] because I don't know who came up with those two

23 [REDACTED] I'm not a scientist, so I cannot give you an answer

24 [REDACTED]

25 Q. Okay. Before passing the resolution to change the

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